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COMPENSATION FOR THE NATIONALIZATION OF AMERICAN-OWNED PROPERTY IN BULGARIA, HUNGARY AND RUMANIA

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I. INTRODUCTION

THE recently enacted Amendments to the International Claims Settlement Act of 1949[1] provide, among other things, a method of compensating American nationals, at least partially, for the nationalization or other taking of their property in Bulgaria, Hungary and Rumania.

These Amendments establish a claims program for the benefit of American nationals, not only for the partial compensation of nationalization claims against the Governments of Bulgaria, Hungary and Rumania, but also for (1) war damage, and pre-war governmental debt (bond) claims against the said three Governments; (2) claims against the Government of Italy arising out of the war and not otherwise provided for in the Italian peace treaty; and (3) claims against Russian nationals secured by liens on certain assets prior to the

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[1] An Act to amend the International Claims Settlement Act of 1949, as amended, and for other purposes. 69 STAT. 562. Chapter 645—Publ. L. No. 285 (H.R. 6382) 84th Cong., 1st Sess. (1955). 1955 U.S. CODE CONG. & AD. NEWS, No. 14, 3912-3928 (August 20, 1955)

The draft legislation was introduced in the House of Representatives as H.R. 6382 on May 19, 1955, and passed the House on June 23, 1955. Hearings before the Senate Committee on Foreign Relations began on July 8, 1955, and were concluded on July 14, 1955. The Committee, after approving certain changes in the bill, voted without objection, to report it favorably to the Senate on July 19, 1955. Cf. Foreign Claims Settlement Commission; Report of the Committee on Foreign Relations on H.R. 6382 Calendar No. 1063, 84th Cong., 1st Sess., Sen. Rep. No. 1050 (*hereafter: Report*). The bill passed the Senate on July 20, 1955, the Conference Report passed on July 27, 1955 and the Act was approved on August 9, 1955.

For legislative history see: 1955 U.S. CODE CONG. & AD. NEWS, No. 14, 4189-4203 (August 20, 1955).

Litvinov Assignment, and other claims arising prior to November 16, 1933, against the Soviet Government.[2] Settlement of such claims out of assets available to the Government of the United States is long overdue, and legislation to the same effect was under consideration for a rather long period of time.[3]

In connection with claims against Bulgaria, Hungary and Rumania the law authorizes the vesting and liquidation of currently blocked assets of the Governments of said countries, and of their nationals, other than natural persons. The background of these provisions is, that: "in the peace treaties of September 15, 1947 the Governments of Bulgaria, Hungary and Rumania undertook to restore American owned property in their respective countries or else provide compensation to the extent of two-thirds of the war damage suffered by it. These undertakings have not been honored. Nor have American owners been compensated for property which was nationalized or otherwise taken subsequent to the date of the peace treaties.[4] Other obligations to American nationals likewise remain unsatisfied. Under the terms of the peace treaties (Art. 29 of the treaty with Hungary is typical)[5] it was provided that assets in the United States belonging to the three Governments or their nationals might be seized

[2] Cf. Title III; also Report (see note 1, *supra*) 1-2.

[3] See among others the following bills to amend the International Claims Settlement Act of 1949, as amended, and for other purposes: S. 3698 (83rd Cong., 2d Sess., introduced in the Senate on July 1, 1954); S. 1310 (84th Cong., 1st Sess., introduced in the Senate on March 4, 1954); see also: Foreign Claims Settlement Commission, Hearings before the Committee on Foreign Affairs, House of Representatives, 84th Cong., 1st Sess., on draft legislation to amend the International Claims Settlement Act of 1949, as amended, and for other purposes, held between March 22 and April 22, 1955, Washington, 1955), (*hereafter*: *Hearings*).

[4] Within approximately one year following the peace treaties each of the countries involved undertook comprehensive nationalization programs, as a result of which virtually all private property was nationalized or otherwise taken. See: "Section by section analysis of proposed bill to amend the International Claims Settlement Act of 1949," section 217, Hearings, note 3 *supra*, at 219. The more important laws upon which the nationalizations were based were enacted between 1947 and 1952. Cf. note 13, *infra*.

[5] The following provision in the treaty with Hungary (Article 29) is repeated in the treaties with Bulgaria and Rumania:

"1. Each of the Allied and Associated Powers shall have the right to seize, retain, liquidate or take any other action with respect to all property, rights and interests which at the coming into force of the present Treaty are within its territory and belong to Hungary or to Hungarian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Hungary or Hungarian nationals, including debts, other than claims fully satisfied under other articles of the present Treaty. All Hungarian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned." Cf. MARTIN, *Private Property, Rights and Interests in the Paris Peace Treaties*, 29 BRITISH Y. B. INT'L LAW 273-300 (1947).

and liquidated, and the proceeds used for such purposes as the United States might desire 'within the limits of its claims and those of its nationals, including debts, other than claims fully satisfied under other Articles of the present Treaty'."[6] It appears that while the use of said assets to compensate war damage and certain unsatisfied pre-war obligations is expressly within the peace treaties, the utilization of such assets to compensate American owners for property nationalized or otherwise taken *subsequent* to the date of the peace treaties is the result of an extended interpretation of the treaty provisions.[7] Said extension, even if somewhat retaliatory in its character, is entirely in accordance with the well established principle of American law, that no government is entitled to take "private property for whatever reason without provision for prompt, adequate and effective payment therefore".[8] The expropriation of property without just compensation is confiscation.[9] The fact that American owners have not been com-

[6] Report (see note 1, *supra*), 2.

[7] "While under the provisions of the treaties these proceeds could be devoted to whatever purposes the United States Government believed desirable, the Department of State concluded that it was fit and appropriate to utilize the proceeds for the satisfaction of the American claims. In this way some measure of compensation will be given to American claimants who have been urging the State Department to assist them and who under present circumstances have no expectation of satisfaction of their claims from any other source." Statement of Mr. Barbour, Hearings (note 3, *supra*) 60.

[8] Secretary of State Hull's note of August 22, 1938 in connection with the Mexican expropriations, 19 Dep't State Press Release 51 (1938); 32 AM. J. INT'L L. 191, 193 (Supp. 1938). See also III HACKWORTH, DIGEST OF INTERNATIONAL LAW 655-664 (Washington, 1942). In the same matter the Secretary's note of July 21, 1938 (III HACKWORTH, p. 656) states:

"If it were permissible for a government to take the private property of the citizens of other countries and pay for it as and when, in the judgment of that government, its economic circumstances and its local legislation may perhaps permit, the safeguards which the constitutions of most countries and established international law have sought to provide would be illusory. Governments would be free to take property far beyond their ability or willingness to pay, and the owners thereof would be without recourse. We cannot question the right of a foreign government to treat its own nationals in this fashion if it so desires. This is a matter of domestic concern. But we cannot admit that a foreign government may take the property of American nationals in disregard of the rule of compensation under international law. Nor can we admit that any government unilaterally and through its municipal legislation can, as in the instant case, nullify this universally accepted principle of international law, based as it is on reason, equity and justice."

[9] The nationalization and expropriation laws recently enacted by the satellite states (see note 12, *infra*) either contain a provision for compensation or state that future legislation will provide for compensation, and, on the face of it, in most cases, there is no confiscation. The statutes speak of nationalization or expropriation and do not seem to differ in that respect from the corresponding law of the Western countries. The fundamental question is whether, when the nationalization laws promise compensation, or when the promise is only that a promise will be made by future legislation, such "taking of property" is, or is not, confiscation. The general principle of American law is well set forth in the following statement of Secretary of State Hull (see note 8,

pensated for the taking of their property in the countries involved gives perfect justification for said provision.

In this connection it is interesting to note that the House Committee on Foreign Affairs has changed section 303 paragraph (2) of the pertaining bill drawn up by the interested administrative agencies. This change affects the so-called Bentley-Amendment, which was adopted by the House of Representatives, and intended to limit claims based on nationalization to such cases in which the taking took place prior to the date of the peace treaties.[10] While such restriction would have been within the wording of the peace treaties, at the same time it would have barred most of the claims based on nationalization, since all nationalizations in Bulgaria and Rumania, and for the most part also in Hungary, took place subsequent to September 15, 1947.[11] Therefore the Act in its final form covers nationalization claims arising both before and after the date of the peace treaties.

The present article deals with only one class of the claims covered by the recent Amendments: with claims arising out of nationalization or other taking of American-owned property in Bulgaria, Hungary and Rumania.[12] Its objective is to review the pertinent provisions of the new law, to draw attention to the possibilities offered by the same, to show the limitations of this relief, and to discuss its technical aspects.[13]

supra): "The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future." Under this interpretation, it is clear that unless there is prompt payment in cash, the nationalization or other "taking of property" amounts to confiscation. That it is not the language of the laws, but the mode in which the laws are actually carried out, that makes the "taking of property" true expropriation or confiscation, has been recognized in legal literature since shortly after the first nationalization laws were enacted. See *e.g.* RADO, *Czechoslovak Nationalization Decrees: Some International Aspects,* 41 AM. J. INT'L L. 795 (1947).

10 Cf. Bill H.R. 6382 (84th Cong., 1st Sess.) § 303 para. 2, and also Report, note 1, *supra,* 10.

11 Cf. Report, note 1, *supra,* 10; Hungarian Decree 600/1945 and Law No. VI of 1945 concerning the taking of property for purposes of land reform; also Solt v. Commissioner, 19 T.C. 27 (1952). It ought to be mentioned that Rumania also enacted an agrarian reform law on March 25, 1945, application of which might have amounted to confiscation in certain cases.

12 For a comprehensive digest-index of the postwar laws divesting property in nine Eastern European countries (*Bulgaria,* Czechoslovakia, *Hungary,* Poland, *Rumania,* Yugoslavia, Estonia, Latvia and Lithuania) see: Vladimir GSOVSKI, Chief-Editor, BIBLIOGRAPHY OF LEGAL SOURCES IN EASTERN EUROPE, (to be published as Nos. 18 to 26 of PRAEGER PUBLICATIONS IN RUSSIAN HISTORY AND WORLD COMMUNISM); a research study of the Mid-European Law Project at the Library of Congress.

13 In order to facilitate these objectives, in the notes certain references shall be made to the "Yugoslav Claims Agreement of 1948" (an agreement between the Gov-

II. CREATION OF FUNDS FOR THE PAYMENT OF COMPENSATION

By operation of section 302 separate funds are created in the Treasury of the United States, to be known as the Bulgarian, the Hungarian, and the Rumanian Claims Funds (hereafter: Claims Funds). The funds so created remain completely independent of each other and are not pooled for application to the Bulgarian, Hungarian and Rumanian claims as a whole. (Section 309)

Generally speaking, the funds will be created from certain Bulgarian, Hungarian and Rumanian assets to which World War II blocking controls were administered.[14] In other words, the funds do not come from the pockets of the American taxpayer, but from properties owned directly or indirectly by Bulgaria, Hungary and Rumania and their nationals, other than natural persons, which are or will become

ernments of the United States of America and of the Federal People's Republic of Yugoslavia regarding pecuniary claims of the United States and its nationals, signed July 19, 1948; Dep't of State Pub. No. 3307 (Washington, 1948); 62 STAT. 2658 et seq.), and to decisions of the International Claims Commission of the United States made regarding claims based upon said agreement. Cf. RODE, *The International Claims Commission of the United States* (August 28, 1950–June 30, 1953), 47 AM. J. INT'L L. 615-637 (1953); CLAY, *Aspects of Settling Claims Under the Yugoslav Claims Agreement of 1948*, 43 GEO. L. J. 582-614 (1955). Concerning agreements to similar effect between the Governments of the United Kingdom and of Yugoslavia see: The Foreign Compensation (Yugoslavia) Order in Council, 1950, Statutory Instruments 1950, No. 1192, which came into operation on August 1, 1950.

[14] Exec. Order No. 8389, 5 Fed. Reg. 1400 (1940) blocked the assets of Bulgaria, Hungary, and Rumania by prohibiting certain specified transactions which would normally take place with respect to foreign-owned property, securities, accounts, and other assets belonging to foreign governments or their nationals in the United States. It became effective with respect to Rumanian assets on October 9, 1940, Bulgarian assets on March 4, 1941, and Hungarian assets, March 13, 1941. Cf. Statement of Mr. Gillilland, Hearings, note 3, *supra*, at 18. Concerning World War II blocking controls see MARTIN DOMKE, TRADING WITH THE ENEMY ACT (New York, 1943).

Title II (vesting and liquidation of Bulgarian, Hungarian, and Rumanian property) relates specifically to the manner in which the assets of said satellite countries should be vested and liquidated. These provisions, which are comparable to the provisions of the Trading with the Enemy Act, in all probability would not be administered by the Commission, but by the Department of Justice. (Cf. Statement of Mr. Clay, Hearings, note 3, *supra*, at 32).

Sources of the Bulgarian, Hungarian and Rumanian claims funds are:

(a) Under § 202(a) any property which was blocked in accordance with Exec. Order No. 8389 of April 10, 1940, as amended, and remained blocked on the effective date of Title II of the Act, and which, as of September 15, 1947 (the effective date of the treaties of peace), was owned directly or indirectly by Bulgaria, Hungary or Rumania and their nationals, other than natural persons. Such property shall be vested.

(b) Under § 202(b) any property which was vested in the Alien Property Custodian or the Attorney General after December 17, 1941, pursuant to the Trading with the Enemy Act as amended, and which at the date of vesting was owned directly by Bulgaria, Hungary or Rumania, or any national thereof, other than natural persons.

available to the United States. The net proceeds of such properties remaining upon the completion of the administration and liquidation thereof, including the adjudication of any suits or claims with respect thereto under sections 207 and 208 (claims of persons other than the three countries involved, or nationals thereof, and certain debt claims) shall be covered into the Treasury and attributed to the funds of the respective countries.[15]

The law closely follows the sound principle of American law that the property of natural persons (private individuals) should not be used for the payment of debts arising out of acts of foreign governments. Accordingly, under section 202 paragraphs (a) and (b) a limited amount of assets belonging to natural persons[16] and vested during World War II will be divested and, pending future study, retained in special blocked accounts along with the still blocked assets of natural persons of Bulgarian, Hungarian and Rumanian nationality. Accordingly, it appears that the funds shall be created only from government- or corporate-owned, vested or blocked assets of Bulgaria, Hungary and Rumania. Corporate-owned assets are properties owned by banks, and by industrial and commercial enterprises of the respective countries, most of which were subject to nationalization.[17]

[15] Concerning the source of the Yugoslav Claims Fund it should be noted that under the Yugoslav Claims Agreement the Yugoslav Government agreed to pay to the United States the sum of $17,000,000 in full settlement for American property expropriated in Yugoslavia, and the United States Government agreed to unfreeze the Yugoslav assets in the United States, including frozen assets in gold amounting to almost $47,000,000 held in the Federal Reserve Bank in New York in the name and for the account of the Government of Yugoslavia after World War II. In making the agreed lump-sum payment of $17,000,000 the Yugoslav government has been discharged of its obligation under international law to make compensation for the expropriation of American property in Yugoslavia. Cf. Report No. 800, Senate Foreign Relations Committee, 81st Cong., 1st Sess. (July 28, 1949), at 3, et seq.

[16] Under § 202, subparagraphs (a) and (b), only private property "directly owned by natural persons" is exempt. This means that so-called family corporations owned by United States citizens are also subject to seizure. Cf. Mr. Doman's letter to Congressman Morano, Hearings, note 3, *supra,* at 214.

[17] "The Department of State is of the opinion that the property of natural persons should be excluded from the vesting program. While the United States has the right to seize such property, it is considered undesirable to take this action: the assets of natural persons are relatively small in amount and we do not wish to alienate the support of friendly nationals of Bulgaria, Hungary and Rumania or impair their faith in the United States. Thus the legislation provides for keeping the assets of natural persons in a blocked status subject to release, when, as, and upon such terms as the President or his designee may prescribe. The matter of release will be the subject of further study. The Department would favor the release under appropriate safeguards. On the other hand, the legislation provides for the vesting and liquidation not only of the assets of the Governments of Bulgaria, Hungary and Rumania but also of assets belonging to corporations organized under the laws of these countries. The Department of State has taken this position with respect to corporate assets, since the effective appro-

The total value of the assets of the three countries blocked by the Treasury Department pursuant to Executive Order 8389 amounted to $31,757,253. Prior to the conclusion of the peace treaties, the Office of Alien Property in the Department of Justice had vested assets with a value as of June 30, 1951, of $2,928,000. This brings the total value of the assets vested and blocked, to $34,685,253. The value of vested and blocked Bulgarian assets as of March 15, 1955, amounts to $3,353,000; of vested and blocked Hungarian assets, $6,199,644; and of vested and blocked Rumanian assets, $24,836,000. The largest single item of Rumanian assets consists of gold bullion belonging to the Government of Rumania with a value of $20 million. Of the present total of $34,388,644 approximately $27 million, or about 74 per cent, is estimated to be either government or corporate owned with the remainder belonging to private individuals.[18]

III. THE ADMINISTRATION OF CLAIMS

UNDER section 303 authority to receive and determine claims is vested in the Foreign Claims Settlement Commission (hereafter: Commission) of the United States.[19] The law provides that five per cent of each claims fund shall be deducted to cover the expenses incurred by the Commission and the Treasury Department in the administration of the law.

Under section 314 the action of the Commission in allowing or

priation by the Governments of Bulgaria, Hungary, and Rumania of all corporate property in those countries has made it virtually impossible to determine the rights of the former beneficial owners." Statement of Mr. Barbour, Hearings, at 60.

[18] Statement of Mr. Gillilland, Hearings, note 3 *supra,* at 18-19. Cf. Report, note 1, *supra,* at 9-10.

[19] The Commission was established by Reorganization Plan No. 1 of 1954 (68 STAT. 1279) which became effective July 1, 1954. That plan combined the former War Claims Commission and the International Claims Commission (established in the Department of State by section 3, paragraph (a) of the International Claims Settlement Act of 1949), and in addition assigned to the new Commission certain functions of the Secretary of State and the Department of State related to the International Claims Commission, and functions of the Commissioner of Claims of American nationals against Russia provided for in Public Resolution 36, approved August 4, 1939. It was created to provide the Government with a central claims agency for the administration and settlement of claims programs not otherwise assigned to other agencies, particularly in the field of international claims. Cf. RODE, note 13, *supra,* at 615-616; CLAY, note 13, *supra,* at 586-589; also Statement of Mr. Gillilland, Hearings, at 15.

Concerning Rules of Practice and Procedure of the Commission, see RODE, note 13, *supra,* at 621-623; CLAY, note 13, *supra,* at 586. Cf. also: *Practice and procedure before international claims commissions, including general principles and techniques of effective presentation of claims.* Proceedings of the American Society of International Law at its forty-ninth annual meeting held at Washington, D. C., April 28-30, 1955. Washington, 1955, pp. 62-85.

denying any claim shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise.[20]

IV. APPLICABLE LAW

UNDER section 303 the validity and amounts of claims shall be determined by the Commission in accordance with applicable substantive law, including international law.

This cryptic statement of section 303 may become a Pandora's box, and seems to leave open a number of questions. *E.g.*, if a transfer of property in Hungary required certain permissions or authorizations by Hungarian authorities according to the then existing exchange control, racial laws, etc., will the transfer be considered invalid according to the substantive law applicable according to the place of transfer or place of contract? Moreover, what American conflicts rule will the Commission apply? That of the principal office, namely the law of the District of Columbia? Several similar questions seem to be fruitful topic of further inquiry, which would, however, surpass the limits of this article.

V. TYPES OF CLAIMS TO WHICH THE CLAIMS FUNDS SHALL BE APPLIED

ALTHOUGH this article deals only with claims arising out of nationalization and other taking of property, it still ought to be mentioned that under section 303 the same Claims Funds shall be applied also to claims arising out of the failure to

(1) restore or pay compensation for war damages to property of nationals of the United States as required by the treaties of peace, to the extent of two-thirds thereof; and

(2) meet obligations expressed in currency of the United States arising out of contractual or other rights (principally rights in bonds, issued by the three Governments) acquired by nationals of the United States prior to April 24, 1941 in the case of Bulgaria, and prior to September 1, 1939 in the case of Hungary and Rumania, and which became payable prior to September 15, 1947.

[20] Section 4, para. (h) of the International Claims Settlement Act of 1949 as amended contains a similar provision. It should be noted that despite this provision, after the completion of its work on Yugoslav claims, the Commission has been served with several lawsuits by claimants under the Yugoslav claims agreement whose claims were denied. The Secretary of the Treasury was sought to be enjoined from the payment from the Treasury of any funds until a court of law could determine these complaints. Cf. Statement of Mr. Clay, Hearings, note 3, *supra*, at 43-44.

No order of priority is established between the three different types of claims to which the Claims Funds shall be applied.

Now, as far as claims analyzed in this article are concerned, section 303, paragraph (2), makes provision to "pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to the effective date of "Title III of the Act," of property [right or interest] of nationals of the United States in Bulgaria, Hungary and Rumania".

Accordingly, nationalization or other expropriation claims cover the taking of any American-owned property by any of the three countries for which compensation has not been made. The phrase "other taking" appears to include takings of American-owned property in the satellite countries by occupation authorities, which property was subsequently acquired and is presently held by the respective governments. The precise means by which they attained control over such property would seem to be immaterial.[21]

VI. ELIGIBLE CLASSES OF CLAIMANTS

UNDER section 303, only nationals of the United States qualify for compensation. It is a general rule of international law that claims against foreign governments by the citizens or nationals of another country cannot be maintained by claimants not citizens of such other country at the time of loss. In other words the nationality of the claim as well as that of the claimant must be the same.[22]

Under section 301 paragraph (2), "National of the United States" means:

(A) *a natural person* who is a citizen of the United States, or who owes permanent allegiance to the United States;[23] and

(B) *a corporation or other legal entity* which is organized under the laws of the United States, any State or Territory thereof, or the

21 Cf. Report, note 1, *supra,* at 5.

22 "Section by Section Analysis of Proposed Bill to Amend the International Claims Settlement Act of 1949," § 201, para. 1. Hearings, note 3, *supra,* at 217. This limitation —expressed also in the Yugoslav Claims Agreement of 1948—conforms with international law and practice that an injury to an individual is an injury to the state of which he is a national. Thus the nationalization or other taking of property of a person who is not a citizen of the United States at the time of such taking could not constitute an injury to the United States warranting it to intervene in his behalf. In the Matter of the Claim of Dolores Moja Moore, Commission, Docket No. Y-910, Final Decision No. 2, April 16, 1952. Cf. RODE, note 13, *supra,* at 623.

23 Cf. 66 Stat. 163 (an act to revise the laws relating to immigration, naturalization and nationality) § 101(a) para. (22) which defines similarly the term "National of the United States".

District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 per cent of the outstanding capital stock or other beneficial interest in such legal entity.

The term "National of the United States" does not include aliens.[24]

A. *Natural persons.*—The general principle controlling the eligibility of a natural person to file a claim against another government is the familiar rule of international law that such a claim must be continuously owned by a national of the claimant State (in this case the United States) from the time the claim arose (time of the taking) until the date of its presentation. Therefore, a natural person who was not an American citizen when the loss was sustained (at the time of the taking of his property) is not an eligible claimant under the law. Accordingly, persons who acquired United States nationality after the taking of their property, must settle their claims with the countries involved directly.[25]

B. *Corporations and other legal entities.*[26]—(1) *Corporate claims.*—As stated in the foregoing, under section 301, for a United States corporation or other legal entity to qualify as an American national in presenting a claim to the Commission, more than 50 per cent of its stock must be owned by natural persons who are nationals of the United States.[27] In order to exclude the possibility of double

[24] During the preparation of the law under discussion suggestions were made to include in addition to nationals of the United States certain classes of aliens ("persons who prior to the effective date of this Act have been permanent residents of the United States and who have no citizenship or nationality, at the effective day of the Act, having been deprived of their former citizenship by Bulgaria, Hungary and Rumania, as the case may be, by special law or decree at the time they were physically in the United States"). See the statement of Mr. Doman, Hearings, note 3, *supra,* at 136. However, such suggestions were not accepted, and thus the Act "does not include aliens".

[25] Cf. Yugoslav Claims Agreement, Art. 3.

[26] Cf. DOMKE, *"Piercing the Corporate Veil" in the Law of Economic Warfare,* 1955 WISC. L. REV. 78 et seq.; BERGER, *"Disregarding the Corporate Entity" for Stockholders' Benefit,* 55 COL. L. REV. 808-829 (1955), and cases and material cited therein.

[27] Cf. Article 2 of the Yugoslav Claims Agreement. Under said agreement, in the Matter of the Claim of Westhold Corporation, Docket No. Y-1235, Decision No. 54, May 22, 1952 (RODE, note 13, *supra,* at 623, 624), the Commission held that:
'it is apparent that a corporation is an eligible claimant only if: (1) the corporation was organized under the laws of the United States, or state or other political entity thereof, and (2) twenty percent of the "outstanding securities" of the corporation "was owned" by individual nationals of the United States, directly or indirectly. As the claimant is a Delaware corporation, it satisfied the first condition above mentioned. If by the word "owned" is meant record or legal ownership, the claimant would satisfy

compensation, the law [section 311, paragraph (a)] provides that if a corporation or other legal entity has a claim on which an award may be made, no award may be made to any other person with respect to such claim.

(2) *Claims of stockholders.*—Section 311, paragraph (b) specifies the conditions which must be met by a stockholder in asserting a claim for damage sustained by a corporation which was not an American national at the time of loss.

A claim based upon a direct or indirect interest in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per cent of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States.

In other words, a stockholder claimant in a foreign corporation is not eligible under the law unless 25 per cent of the corporate stock was owned by American nationals at the time of loss. This rule reflects the traditional practice of the United States in requiring a showing of a "substantial" interest in a foreign corporation before it will espouse an international claim; and the claim must have been national in origin as well as on the date of presentation. In addition, the provision apparently also serves a practical purpose: to eliminate

the second condition, for well over twenty percent of the corporate stock—a class of outstanding securities—was registered in American citizens at all pertinent times. If, however, the word "owned" means beneficial ownership, the corporation does not satisfy the second condition, for the entire beneficial ownership of its stock was in aliens at the time of the alleged nationalization or taking and at all times subsequent to December 1940. . . . In the report of the Senate Committee on Foreign Relations reporting out H.R. 4406 (Public Law 455), it is stated: "Under international law, governments have been known to espouse claims of their corporations, although all of the corporate stock be foreign held. This Government, in its negotiations with the Yugoslav Government, did not take this extreme position, being of the view that a substantial American beneficial interest should exist in an American juridical entity prior to espousal of the entity's claim. It was agreed that this substantial interest would be '20 percent or more of any class of outstanding securities which were at such time (the time of the nationalization or other taking of property) owned by individual nationals of the United States.' It is conceivable that the remaining 80% might be held by foreign nationals, resident or nonresident in the United States" (Calendar No. 810, Report No. 800, 81st Cong., 1st Sess. pp. 10 and 11). The conclusion therefore must be that the requirement as to twenty percent of the stock ownership in American nationals was to assure a substantial American beneficial interest. . . . As it has not been shown that twenty percent of any class of the outstanding securities of the claimant corporation were beneficially owned by individual nationals of the United States at the time of nationalization or other taking of its property by the Government of Yugoslavia, this claim must be denied in whole.'

claims based upon a holding of a few shares only, which would hardly justify the expense and effort of processing.

C. *General exclusion of claimants.*—Under section 312, no award shall be made to or for the benefit of any person who voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served any government hostile to the United States during World War II, or who has been convicted of a violation of any provision of chapter 115, of title 18, of the United States Code (62 Stat. 807), or of any other crime involving disloyalty to the United States.

VII. DETERMINATION OF THE VALIDITY AND THE AMOUNTS OF CLAIMS

UNDER section 303 authority is vested in the Commission to determine the validity and the amounts of claims.

With respect to the clear provisions of the law, it seems that, except for some more involved problems of corporations and stockholdings, the establishment of eligibility will not present particularly difficult problems. On the other hand the proof of the validity and the amounts of claims will cause grave difficulties for the claimants, and most probably there will be cases in which it will be simply impossible to overcome such difficulties. The minority of claimants might be lucky enough to have more or less complete files of documents and records necessary to prove their claims; such material, even if partly obsolete, is of great value. But the majority of claimants would need evidentiary material from the country of loss, the obtaining of which seems at least for the time being almost impossible. In connection with claims based on nationalization the cooperation of the affected Governments is not to be expected.[28] Endeavors to obtain

[28] The situation under the Yugoslav Claims Agreement was different, because Yugoslavia obligated herself to furnish the United States, on request, all information and documents necessary to settle the individual claims (Article 9a). The Yugoslav authorities furnished various records and appointed Commissions to appraise the value of properties involved, and also the Commission's own investigators had opportunity to inspect properties of the claimants in Yugoslavia. Cf. in the Matter of the Claim of Joseph Senser, Commission Docket No. Y-1756, Decision No. 663, March 31, 1954; see also RODE, note 13, *supra,* at 621; CLAY, note 13, *supra,* at 589-592. Although the distribution of the Yugoslav fund among the claimants was made a concern of the United States alone (Article 8), Yugoslavia was authorized to file briefs as *amicus curiae* with the consent of the Commission (Article 9). One of the main reasons for the cooperation of the Yugoslav Government seems to be Article 1 of the Yugoslav Claims Agreement, which provided that any money left over after all awards have been made and the expenses of adjudication paid was to be returned to Yugoslavia. It should be noted, how-

evidentiary material through private channels from the countries of loss will be greatly hindered by rules and practices of the satellite states prohibiting the obtaining and conveying to the United States of pieces of evidence needed to prove the validity and amounts of claims. Under the laws of the countries involved, in certain cases even purely economic data and information, which would ordinarily belong in the statistical yearbooks of any state, are considered to be state secrets, and the communication thereof is a criminal offense.[29] Under such circumstances, from a practical standpoint, it is hoped that the Commission will aid the claimants by relieving them at least in certain respects of the burden of proof. It seems that one of the most important questions will be whether, and if so to what extent the Commission will accept the testimony and sworn statement of the claimants and others who may be able to establish sufficiently their source of knowledge of pertinent facts, and the facts themselves.

The burden is on the claimant to show (1) that he was the owner of certain property, (2) that his property was nationalized or otherwise taken, and (3) the amounts of loss suffered by such taking.

(1) *Proof of ownership.*—There are several ways to prove ownership. For instance, the best evidence of ownership of real property would be a certified excerpt of the pertinent real estate register,[30] giving the brief description of the real property, the name of the owner, the time of acquisition, and in case of property purchased and not inherited also indicating the purchase price, mortgages[31] and other encumbrances, if any. If the property was inherited, the excerpt

ever, that this provision turned out to be purely academic, since the fund was not sufficient to pay in full all awards made by the Commission. Similar provisions are to be found in the peace treaties (*e.g.*, in Article 29 of the treaty with Hungary); these seem to be also purely academic because of the insufficiency of funds.

[29] Cf. LESLIE LENARD, *State Secrets in Hungary, Highlights of Current Legislation in Mid-Europe,* Mid-European Law Project, Library of Congress, Vol. III, Nos. 5 and 6, May and June 1955, pp. 143-144, and Decrees cited therein.

[30] Under the Yugoslav Claims Agreement "the Commission followed the principle that a claimant whose claim is based on real property, has to prove that he was the owner of record in the land registry books of Yugoslavia; otherwise the claim was not recognized. Transfers claimed to have been made in this country by deeds, not recorded in Yugoslavia, transfers made during the occupation or after the war without having been recorded, and transactions attempting to give beneficial ownership of real property of claimants were disallowed by the Commission. Cf. RODE, note 13, *supra,* at 625-628, and cases cited therein.

[31] It is interesting to note that In the Matter of the Claim of Frieda Bergmann, Commission, Docket No. Y-1120, Decision No. 597 of April 16, 1953, the Commission held "that a recorded mortgage is within the terms of Article 1 of the Yugoslav Claims Agreement of 1948, and the taking or nationalization of the property against which such mortgage is recorded qualifies as a claim."

would show the amount of inheritance taxes paid, from which certain inference could be drawn as to the value of the property at the time of acquisition. In the absence of excerpts from the land register, ownership of real estate might be proven by decrees of the land registry office, by certified land maps showing the owner's name and share, by mortgage bonds, tax assessments, and by many other documents official in character.

Ownership of stocks surrendered in accordance with the nationalization laws[32] might best be proven by receipts of the respective Government agencies (Consul, etc.), or in case the surrender was made by a bank, with the statement of such bank. The stock or bond itself, or a statement of a bank or other despositary concerning stocks and bonds also would be satisfactory evidence of ownership. Minutes of meetings of stockholders, listing the holders of stock and their stockholding, also could be used.

Ownership of bank accounts, savings accounts, and accounts receivable could be shown by bank statements, savings bank books, debentures, and even statements showing the payment of interest on such assets.

Ownership in a registered partnership or a limited company could be proven by the certificate of registration or by a certified copy of the partnership agreement. In the absence of such documents circumstantial evidence (such as correspondence received by the firm in which the claimant's name appears, etc.) might be useful. It seems that the ownership in firms which were not registered with the court (like many one-man firms) can be proven only by circumstantial evidence.

Ownership of contents of safe-deposit vaults, of household furnishings and jewelry could be shown, among others, by bills or insurance policies pertaining thereto. This seems to be one of the fields where the proof of ownership will be most difficult.

The above is, of course, only a very sketchy list of the most important assets, the taking of which might be claimed, and of some of the means by which ownership of such assets might be established. Naturally, it will not be sufficient to establish merely the fact of ownership at any time, but also the fact that ownership of the claimant *continued* until the time when the property was taken must be shown.

32 Cf. *e.g.* Hungarian Law Article XXV of 1948 (concerning the nationalization of industrial enterprises) § 3.

To prove the continuity of ownership will certainly increase to a great extent the burdensome task of the claimants.

(2) *Proof of nationalization or other taking.*—The claimant must prove actual nationalization, compulsory liquidation, or other taking of his property[33] coupled with his testimony to the fact that no compensation was received by him. It may be assumed that concerning such kinds of property which clearly come under the various nationalization laws,[34] upon proof that the ownership of the claimant had continued until the time of taking under the pertaining law, the Commission will officially take notice of the fact of the taking and of the time thereof. However, it seems that in cases concerning property which does not clearly come under the various nationalization laws, or in cases of individual compulsory liquidation or other taking, the actual taking and the time thereof also must be proven by the claimant.[35]

(3) *Amounts of loss.*—The gravest difficulties will arise in connection with the proving of the value of the property lost. It is almost impossible to list all or even part of the problems which will come up in the various cases. However, it may be useful to analyze at least one example showing some of the difficulties involved. For this purpose it is assumed that the value of a corporation, shares of which were not traded on the stock market, must be established, and at present there is nothing at hand to show the amounts of loss. In such case the only resort of the claimant seems to be to try to locate some of the balance sheets and profit and loss statements of the company, published either

33 A claim for the nationalization or other taking of property does not arise until the possession of the owner is interfered with. Matter of the Claim of Angelina Evasovich Pobrica, Commission, Docket No. 967, Final Decision No. 454, June 25, 1953 (following the decision of the Commission under the Claims Convention with Panama; see, Mariposa Development Co. et al. Report by Bert L. Hunt, Agent for the United States, American and Panamanian Claims Arbitration, 573-577).

34 For the nationalization laws of the countries involved see note 12, *supra.*

35 *It seems to be possible that* instead of making an exhaustive investigation of claims on an individual basis, *the Commission will use one single year as the time of all takings, and for the valuation of all claims,* on the ground that such particular year "was the last year, prior to the takings, in which economic conditions and the resulting price and value structure, were still comparatively 'normal'." *Cf. the leading case In the Matter of the Claim of Joseph Senser, note 28 supra, conclusions of which apply with equal force to all Yugoslav awards, "so as to obtain uniformity of treatment so far as practicable".* See particularly Part I of this decision: "Basis for and time of valuation of property". Although in Yugoslavia the greater part of takings occurred in the years 1944-1946, the Commission considered 1938 as the initial point of reference, however, without excluding the "consideration of later valuations, including particularly those reflecting values at the more precise time of nationalization or other taking." (Senser, *supra*; see also CLAY, note 13, *supra,* at 611.)

in the commercial section of the official Gazette, or in unofficial economic or statistical yearbooks of the country where the corporation is or was located. However, even when the balance sheets and profit and loss statements of several consecutive years can be located, in most cases—for various reasons—no reliable valuation can be based on them. For instance, although the amounts of loss apparently must be determined at the time of the taking, most probably it will be rather difficult to locate the balance sheets of the year closest to such time. On the other hand, prewar and wartime balance sheets would not disclose the many changes in the capital structure (by revaluation, etc.), made after the war.[36] Balance sheets published for the general public usually contain only the minimum of information required by law. Many of them are made out by the use of various methods of cosmetic bookkeeping and are usually very condensed, stating, for instance, only the balance of the accounts of creditors and debtors. Some of the tax laws of the countries involved permitted accelerated depreciation of the machinery, the continuous undervaluation of inventory, and generous donations to pension funds over and above the actual need.[37] These liberties were always widely used, not only because of the high tax rates, but also because of the fear of capital levies.[38] Some of the tax laws also permitted the creation of so-called "latent reserves"[39] from properly taxed profits. Such taxed reserves do not appear in the public balance sheets, but are concealed; these are usually either simply left out of the balance sheet or inserted as fictitious creditors.

The above example seems to indicate that in the absence of proper evidence claimants will be obliged to try the use of a great variety of individual methods, depending on the type of property involved,

[36] Cf. *e.g.* Hungarian Decree No. 9,000/1946 M.E. concerning the introduction of the "Forint", the postwar currency of Hungary, and also Decree No. 1790/1947 M.E. concerning the preparation of opening balance-sheets in Forint-value, as per January 1, 1947.

[37] Cf. *e.g.* Hungarian Law, Article VII of 1940 (and Decree No. 2000/1940 P.M.) concerning the taxation of corporations, fees of members of boards of directors, and the capital tax of corporations, section 13 paragraph (7), section 14, paragraph (1), subparagraphs 1 and 3, and so forth. Bulgaria: Income Tax Law of February 3, 1936; Rumania: Decree Law on Direct Taxation of April 1, 1941 (Official Gazette No. 78 of April 1, 1941).

[38] Cf. *e.g.* Hungarian Law, Article XX of 1938 concerning the single investment contribution; Hungarian Decree No. 10,130/1947 Korm. (and Decree No. 183,100/VII P.M.) concerning the single capital levy, and capital increase levy. Bulgaria: War Profit Taxation Law of June 5, 1941 and July 10, 1942.

[39] Cf. *e.g.* Hungarian Law Article VII of 1940, section 13, paragraph (10).

to prove the value of same. Statements of former employees, suppliers, customers, insurance brokers and many other kinds of secondary evidence might be helpful to prove the value of some lost items.

In many cases the burdensome task of the claimant will be increased by the fact that the values—both the basis and the adjusting items—usually will have to be established in collapsed foreign currencies, or at least in monetary systems where the unit has fluctuated wildly in terms of the United States dollar.[40] The burden is on the claimant to show the extent of his loss, but the Commission has leeway to make its own fair appraisal[41] of the values involved if convincing proof as to the value is not offered.[42]

Attention is called to the fact that the proper determination of the amounts of loss might be particularly important not only concerning the presently available partial compensation, but also with regard to the balance of the claims which will now remain unpaid due to the insufficiency of funds, or to the later restitution of property. The wording of section 313 seems to indicate that the determination of the Commission might be conclusive even in case of later recoveries by the claimant.[43]

VIII. LIMITATIONS OF AWARDS

IN order to discourage speculation in claims, by preventing the enrichment of those individuals who may have paid low prices for their bonds and other claims, section 307 provides that the amount of any award on a claim of a national of the United States other than the one to whom the claim originally accrued shall not exceed the amount of the actual consideration last paid therefor either prior to January 1, 1953 or between that date and the filing of the claim, whichever is less. In cases which fall under this provision, it will be

40 Cf. Dach: Conversion of Foreign Money, 4 AM. J. COMP. L. 155-185 (1954).

41 Cf. In the Matter of the Claim of Joseph Senser (see note 28 *supra*), Part II: "Rate of exchange for converting valuations of property into American dollars when first determined in another currency".

42 Official rates of exchange might be easily proven by international publications on currencies and exchange rates, such as "International Financial Statistics", an official publication of the International Monetary Fund, and so forth.

43 The unsatisfied portion of the awards will be left open for future espousal by the Government of the United States, which undoubtedly would rest solely with the discretion of the Department of State in their negotiations at some future time. One of the possibilities would be some arrangements in trade agreements. Cf. Statement of Mr. Clay, Hearings, note 3, *supra,* at 96; *United Kingdom*: Foreign Compensation Act, 1950; Foreign Compensation (Hungary) (Registration) Order in Council, 1954 (S. I. 1954, No. 219); Foreign Compensation (Rumania) (Registration) Order in Council, 1954 (S. I. 1954, No. 221); and also trade agreement between Switzerland and Hungary providing for the compensation of nationalization claims (July 19, 1950).

the duty of the Commission to limit the award to the actual consideration paid therefor by the claimant.

There were limitative proposals with regard to tax benefits from write-offs of losses which were however not retained in the Act.[44]

IX. THE PAYMENT OF AWARDS[45]

THE Commission shall in the order of the making of such awards, certify to the Secretary of the Treasury, in terms of United States currency, each award made (section 308). Under section 310 the Secretary of the Treasury shall make payments on account of awards certified by the Commission as follows: (1) payment in full of the principal amount of each award of $1,000 or less; (2) payment in the amount of $1,000 on account of the principal of each award of more than $1,000; and (3) after completing the payments under (1) and (2), payments from time to time, *in ratable proportions,* of the then unpaid principal of all awards in the principal amount of more than $1,000, according to the proportion which the unpaid principal of such awards bears to the total amount in the respective funds available for distribution on account of such awards. Since such proportion will be

[44] The Senate introduced an amendment (No. 5) which required that there be deducted from awards made to claimants the amount of any reduction in Federal or State income taxes resulting from property losses for which an award is made. This amendment was dropped on the basis of the understanding that there will be no windfalls to claimants receiving awards who had previously written off losses for tax purposes. ("The Internal Revenue Code makes provision for recoupment of any reduction in Federal taxes which resulted from the allowance in prior years of a deduction on account of the destruction or seizure of property for which an award is made. The payment of an award to a taxpayer, who has taken a deduction in prior years does not, therefore, constitute a windfall." Statement of Acting Secretary of the Treasury David W. Kendall, in letters to the Chairman of the Committees on Foreign Relations and Foreign Affairs, dated July 26, 1955. Cf. Conference Report No. 1475 of July 27, 1955, in 1955 U.S. CODE CONG. AND AD. NEWS, No. 14, 4203, August 20, 1955).

It seems that the withdrawn amendment would have been most equitable. (Cf. Statement of Mr. Spiegelberg, Hearings, note 3, *supra,* at 148-149; also Report, note 1, *supra,* at 12.) Some of the claimants had already deducted from taxable income, in whole or in part, their losses sustained by nationalization or other taking of their property. In such cases the receiving of an award for the same loss would in effect result in a second recovery, leading to an inequitable effect of reducing the fund shared by other claimants whose less fortunate circumstances had not permitted them to realize corresponding tax benefits. For this reason the proposed amendment (of § 310, para. (4)) intended to curtail the amount of any award by the amount of any reduction in Federal and State income taxes resulting from the write-offs in prior years on account of the seizure of property for which the award has been made.—For the tax aspects of foreign confiscation losses see: DACH AND UJLAKI, note 51, *infra.*

[45] It would go beyond the scope of the present article to deal with the rules of Federal income taxation of payments received on account of awards. It should be noted, however, that successful claimants will have grave difficulties in proving for tax purposes the basis of their property nationalized or otherwise taken.

ascertainable only after the completion of the affairs of the Commission in connection with the settlement of all claims attributable to any of the funds, amounts exceeding $1,000 shall become payable only after such determination is completed.

Since the funds are rather limited, the provision to pay accrued interest from the remainder of the funds, if such is available after full payment of all awards from any one fund, seems to have academic rather than practical value.[46]

X. LEGAL CONSEQUENCES OF THE PAYMENT OF AWARDS

THE funds are limited, and it is most probable that they will be insufficient to meet the claims of otherwise qualified claimants, except possibly in the case of the Bulgarian assets. Therefore, all awards or payments shall be made without prejudice to the claims against any of the three foreign Governments involved. Under section 313 payment of any award shall not—unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made—extinguish such claim, or be construed to have divested any claimant, or the United States on his behalf, of any rights against the appropriate foreign government or national for the unpaid balance of his claim or for restitution of his property.[47] In other words the law upholds the right of the claimants to whom an award or payment will be made to the unpaid balance of their claim determined to be valid by the Commission.

XI. MISCELLANEOUS PROVISIONS

1. *Time for filing of claims.*—Claims shall be filed with the Commission on or before September 30, 1956. (Sec. 306 — Commission, Revision of Regulations, Sec. 531.2. 20 Fed. Reg. 191, p. 7312.)

2. *Time for settlement of claims.*—The Commission shall complete its affairs in connection with the settlement of claims within a period of four years.[48] (Section 316)

[46] Cf. SENSER, note 28, *supra*, Part III: "Allowance of interest upon the principal amount of the award."

[47] This seems to be one of the most basic differences between the Yugoslav Claims Agreement and the legislation under discussion. Under the former, American nationals were precluded from seeking compensation under the Yugoslav laws from the Government of Yugoslavia, if their claims fell within the purview of the Agreement; their claims are regarded as settled (Article 4.c.).

[48] Following the date of enactment of Title III of the Act, or following the date

3. *Limitation of fees of attorneys, etc.*—The fees of attorneys-at-law, or in fact, or representatives for services rendered in connection with any claim filed with the Commission are limited to 10 per cent of the total amount paid on account of such claim.[49] Any agreement to the contrary is unlawful and void. However, under circumstances of unusual hardship, the Commission may authorize the payment of remuneration in excess of the said maximum. (Section 317)

XII. CONCLUSION

THE post-war avalanche of foreign legislation on expropriation amounting to confiscation[50] shocked the lawyers of the world. A voluminous new legal literature sprang up on the subject; the extra-territorial effect of the legislation was widely discussed, and interesting theories were advanced.[51] But neither these theories, with all their valuable contribution to legal thought, nor the prospect of action of the governments to seek redress, seems to have promised practical relief in most cases.[52] Under these circumstances, the steps taken by the recent legislation to provide a method of at least partially compensating American owners for their confiscation-losses[53] is of particularly great significance.

of enactment of legislation making appropriations to the Commission for the payment of administrative expenses incurred in carrying out its functions under Title III, whichever date is later.

[49] Such provision appears to have been acceptable to the Congress in relation to legislation of this type throughout the years. Cf. Statement of Mr. Clay, Hearings, note 3, *supra*, p. 33; also section 4, paragraph (f) of the International Claims Settlement Act of 1949 as amended, in connection with the administration of the Yugoslav Claims Agreement of 1948.

[50] See note 8, *supra*.

[51] For recent bibliography on foreign confiscation and related problems see, *e.g.*, ALLUNTIS, THE PROBLEM OF EXPROPRIATION 153-160 (Washington, 1949); BINDSCHEDLER, VERSTAATLICHUNGSMASSNAHMEN UND ENTSCHAEDIGUNGSPFLICHT NACH VOELKERRECHT (Zuerich, 1950); Re, FOREIGN CONFISCATIONS IN ANGLO-AMERICAN LAW 171-177 (New York, 1951); VASSALLI, A CONFISCA DEI BENI (Padova, 1951); SEIDL-HOHENVELDERN, INTERNATIONALES KONFISKATIONS- UND ENTEIGNUNGSRECHT (Berlin & Tuebingen, 1952); FRIEDMAN, EXPROPRIATION IN INTERNATIONAL LAW (London, 1953); DOMAN, *Postwar Nationalizations of Foreign Property in Europe*, 48 COL. L. REV. 1125-1161 (1948); DOMAN, *Compensation for Nationalized Property in Post-War Europe*, 3 INT'L L. Q. 323-342 (1950); DOMKE, *On the Extraterritorial Effect of Foreign Expropriation Decrees*, 4 WEST. POL. Q. 12 (1951); RE, *The Nationalization of Foreign Owned Property*, 36 MINN. L. REV. 323 (1952); GUTTERIDGE, *Expropriation and Nationalization in Hungary, Bulgaria and Rumania*, 1 INT'L & COMPAR. L. Q. 14-28 (1952); DACH and UJLAKI, *Tax Aspects of Foreign Confiscations*, 21 GEO. WASH. L. REV. 445-464 (1953); RE, *Nationalization and the Investment of Capital Abroad*, 42 GEO. L. J. 44-68 (1953); JESSUP, *Enemy Property*, 49 AM. J. OF INT'L L. 57-62 (1955).

[52] Cf. DACH and UJLAKI, note 51, *supra*.

[53] Cf. note 7, *supra;* also Report, see note 1, *supra*, at 12.